

PATENT COOPERATION TREATY
PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

REC'D 04 JAN 2005

PCT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference P22273PCAU	FOR FURTHER ACTION	See Form PCT/IPEA/416
International application No. PCT/AU2004/000058	International filing date (day/month/year) 16 January 2004	Priority date (day/month/year) 17 January 2003
International Patent Classification (IPC) or national classification and IPC Int. Cl. 7 A23G 3/12, A23P 1/10		
Applicant MARS INCORPORATED et al		

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 3 sheets, including this cover sheet.

3. This report is also accompanied by ANNEXES, comprising:

a. (sent to the applicant and to the International Bureau) a total of sheets, as follows:

sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).

sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.

b. (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or table related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).

4. This report contains indications relating to the following items:

<input checked="" type="checkbox"/> Box No. I	Basis of the report
<input type="checkbox"/> Box No. II	Priority
<input type="checkbox"/> Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
<input type="checkbox"/> Box No. IV	Lack of unity of invention
<input checked="" type="checkbox"/> Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
<input type="checkbox"/> Box No. VI	Certain documents cited
<input type="checkbox"/> Box No. VII	Certain defects in the international application
<input type="checkbox"/> Box No. VIII	Certain observations on the international application

Date of submission of the demand 5 August 2004	Date of completion of the report 16 December 2004
Name and mailing address of the IPEA/AU AUSTRALIAN PATENT OFFICE PO BOX 200, WODEN ACT 2606, AUSTRALIA E-mail address: pct@ipaaustralia.gov.au Facsimile No. (02) 6285 3929	Authorized Officer GARETH COOK Telephone No. (02) 6283 2541

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/AU2004/000058

Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.

This report is based on translations from the original language into the following language which is the language of a translation furnished for the purposes of:

- international search (under Rules 12.3 and 23.1 (b))
- publication of the international application (under Rule 12.4)
- international preliminary examination (under Rules 55.2 and/or 55.3)

2. With regard to the elements of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):

the international application as originally filed/furnished

the description:

pages	as originally filed/furnished
pages*	received by this Authority on with the letter of
pages*	received by this Authority on with the letter of

the claims:

pages	as originally filed/furnished
pages*	as amended (together with any statement) under Article 19
pages*	received by this Authority on with the letter of
pages*	received by this Authority on with the letter of

the drawings:

pages	as originally filed/furnished
pages*	received by this Authority on with the letter of
pages*	received by this Authority on with the letter of

a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing.

3. The amendments have resulted in the cancellation of:

- the description, pages
- the claims, Nos.
- the drawings, sheets/figs
- the sequence listing (*specify*):
- any table(s) related to the sequence listing (*specify*):

4. This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

- the description, pages
- the claims, Nos.
- the drawings, sheets/figs
- the sequence listing (*specify*):
- any table(s) related to the sequence listing (*specify*):

* If item 4 applies, some or all of those sheets may be marked "superseded."

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/AU2004/000058

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims 1-13	YES
	Claims	NO
Inventive step (IS)	Claims 1-13	YES
	Claims	NO
Industrial applicability (IA)	Claims 1-13	YES
	Claims	NO

2. Citations and explanations (Rule 70.7)

The following documents identified in the International Search Report have been considered for the purposes of this report:

- D1 US 5 019 404
- D2 US 6 383 539
- D3 EP 1 103 187
- D4 US 4 184 613

Novelty (N) AND Inventive Step (IS) claims 1 to 13

None of the cited documents disclose all of the features of each of the independent claims. Therefore all of the claims are novel. The claimed invention is not obvious in the light of any of the cited documents nor is it disclosed in any obvious combination of them. It is also considered that it would not be obvious to a person skilled in the art in the light of common general knowledge either by itself or in combination with any of these documents.

Industrial Applicability (IA) claims 1 to 13

The claims are related to products capable of commercial application so are Industrially Applicable.